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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/700,908	11/21/2000	Mitsuo Watanabe	001539	3329

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18
EXAMINER

AUGHENBAUGH, WALTER

ART UNIT

PAPER NUMBER

1772

DATE MAILED: 09/23/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/700,908

Applicant(s)

WATANABE ET AL.

Examiner

Walter B Aughenbaugh

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) 1-10 and 18-24 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11-17 and 25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Acknowledgement of Applicant's Amendments

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on July 28, 2003 (Paper 17) has been entered.
2. The amendments made in claims 15 and 25 given on page 3 of Paper 17 have been received and considered by Examiner.

WITHDRAWN REJECTIONS

3. The 35 U.S.C. 112, second paragraph rejection of claim 15 made of record in paragraph 10 of Paper 13 has been withdrawn due to Applicant's amendment to claim 15 in Paper 17.
4. The 35 U.S.C. 103(a) rejection of claim 15 over Nakagawa in view of Stier et al. previously made of record in paragraph 13 of Paper 13 has been withdrawn due to Applicant's amendment to claim 15 in Paper 17.

REPEATED REJECTIONS

5. The 35 U.S.C. 102(b) rejection of claims 25, 11-13 and 16 as anticipated by Nakagawa has been repeated for the reasons previously made of record in paragraph 11 of Paper 13 and for the following reasons that address the amendments made to claim 25 in Paper 17. The recitation "at an injection temperature of about 220 to 290°C injection pressure of about 200 to 1000 kg/cm², whereby the surface layer is softened and formed again and simultaneously the surface layer and outer reinforcing layer are fused" solely recites method limitations that have not been

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given patentable weight since the method of forming the article is not germane to the issue of patentability of the article itself. The surface layer (corresponding to the acrylic resin sheet of Nakagawa, see paragraph 11 of Paper 13) and the outer reinforcing layer (corresponding to the thermoplastic reinforcement layer of Nakagawa) of Nakagawa are fused (i.e. bonded together) since Nakagawa teach that the acrylic resin sheet and the thermoplastic reinforcement layer are welded together (paragraph 19 of "Detailed Description" section of Nakagawa). Applicant's deletion of the word "wherein" in the fourth and sixth lines of the claims does not affect the basis of rejection provided in Paper 13.

6. The 35 U.S.C. 103(a) rejection of claim 14 over Nakagawa in view of Adams et al. and in further view of Akamatsu has been repeated for the reasons previously made of record in paragraph 12 of Paper 13 and for the reasons provided above that address the amendments made to claim 25 in Paper 17.

7. The 35 U.S.C. 103(a) rejection of claim 17 over Nakagawa in view of Seymour et al. has been repeated for the reasons previously made of record in paragraph 14 of Paper 13 and for the reasons provided above that address the amendments made to claim 25 in Paper 17.

NEW REJECTIONS

Claim Rejections - 35 USC § 112

8. Claim 25 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The word "further" in the sixth line of the claim is unnecessary. A few words, perhaps "and an", are missing in the phrase "290°C injection" in the eighth line of the claim.

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Claim 25 recites the limitation "outer reinforcing layer" in the tenth line of the claim.

There is insufficient antecedent basis for this limitation in the claim. Amend to "outer reinforcing shell layer".

Claim Rejections - 35 USC § 103

9. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nakagawa in view of Stier et al.

Note that the recitation "obtained by subjecting said surface layer to thermoforming twice when said outer reinforcing shell layer is subjected to an injection molding" is a method limitation and has not given patentable weight, since the method of forming the surface layer and the outer reinforcing shell layer is not germane to the issue of patentability of the surface layer and the outer reinforcing shell layer itself.

Nakagawa teaches the article as discussed above. Nakagawa fails to teach that the surface layer is provided with a skid-preventing texture. Stier et al., however, teach a prefabricated, slip-resistant surface coating comprising film (item 16) that has embedded in the film (item 16) a plurality of finely-divided abrasive materials (col. 2, line 63-col. 3, line 5 and Figure 2). Stier et al. teach the application of the slip-resistant surface coating to a bathtub (Figure 3 and col. 4, lines 31-39) to reduce the hazard presented by wet bathtubs (col. 1, lines 15-16). Therefore, one of ordinary skill in the art would have recognized to apply the slip-resistant surface coating of Stier et al. to the acrylic resin sheet of the molded article of Nakagawa in order to provide a skid-preventing texture to the acrylic resin sheet and to consequently reduce the hazard presented by wet bathtubs as taught by Stier et al.

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It would have been obvious to one of ordinary skill in the art at the time the invention was made to have applied the slip-resistant surface coating of Stier et al. to the acrylic resin sheet of the molded article of Nakagawa in order to provide a skid-preventing texture to the acrylic resin sheet and to consequently reduce the hazard presented by wet bathtubs as taught by Stier et al.

ANSWERS TO APPLICANT'S ARGUMENTS

10. Applicant's arguments on pages 4-5 of Paper 17 regarding the 35 U.S.C. 102(b) rejection of claims 25, 11-13 and 16 as anticipated by Nakagawa have been fully considered but are not persuasive.

Applicant points out that "in Nakagawa JP '688 the outer shell is made of thermoplastic resin foam". The claims of the instant application do not present any structural limitations that exclude "thermoplastic resin foam" from the scope of the claims. The recitation "at an injection temperature of about 220 to 290°C injection pressure of about 200 to 1000 kg/cm²" solely recites method limitations that have not been given patentable weight since the method of forming the article is not germane to the issue of patentability of the article itself. Applicant states that the "result of this process condition is that surface layer is softened and formed again and simultaneously the surface layer and outer reinforcing layer are fused". The recitation "the surface layer is softened and formed again and simultaneously the surface layer and outer reinforcing layer are fused" itself recites only process limitations that have not been given patentable weight since the method of forming the article is not germane to the issue of patentability of the article itself. The recitation "the surface layer is softened and formed again and simultaneously the surface layer and outer reinforcing layer are fused" does not positively

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recite any structural limitations that would “result” from the claimed process limitations. In response to Applicant’s argument that that the “further result is that the thermoplastic resin is not foamed like in Nakagawa JP ‘688”, the structural limitations on which the Applicant relies are not stated in the claims. It is the claims that define the claimed invention, and it is the claims, not specifications that are anticipated or unpatentable. *Constant v. Advanced Micro-Devices Inc.*, 7 USPQ2d 1064.

In response to Applicant’s arguments that the process conditions taught by Nakagawa and those claimed by Applicant are different, method limitations are not given patentable weight in article claims since the method of forming the article is not germane to the issue of patentability of the article itself. Applicant states that “the applicants have eliminated [foam], making their product structurally distinct”; Applicants have not eliminated foam from the scope of the claims since there are no structural limitations provided in the claims that exclude the foam structure from the scope of the claims. Consequently, the article claimed by Applicant is not structurally distinct from the article taught by Nakagawa. The statements made by Examiner in this paragraph also apply to the repetitious arguments presented by Applicant in the third paragraph of page 6 of Paper 17.

11. Applicant’s arguments on page 5 of Paper 17 regarding the 35 U.S.C. 103(a) rejection of claim 14 over Nakagawa in view of Adams et al. and in further view of Akamatsu have been fully considered but are not persuasive. Applicant’s argument depends entirely upon Applicant’s arguments in regard to the 35 U.S.C. 102(b) rejection of claims 25, 11-13 and 16 as anticipated by Nakagawa that are addressed above in this Office Action (Paper 18).

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12. Applicant's arguments on page 6 of Paper 17 regarding the 35 U.S.C. 103(a) rejection of claim 15 over Nakagawa in view of Stier et al. have been fully considered but are not persuasive. Applicant's argument depends entirely upon Applicant's arguments in regard to the 35 U.S.C. 102(b) rejection of claims 25, 11-13 and 16 as anticipated by Nakagawa that are addressed above in this Office Action (Paper 18).

13. Applicant's arguments on page 6 of Paper 17 regarding the 35 U.S.C. 103(a) rejection of claim 17 over Nakagawa in view of Seymour et al. have been fully considered but are not persuasive. Applicant's argument depends entirely upon Applicant's arguments in regard to the 35 U.S.C. 102(b) rejection of claims 25, 11-13 and 16 as anticipated by Nakagawa that are addressed above in this Office Action (Paper 18).

Conclusion


14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Walter B. Aughenbaugh whose telephone number is 703-305-4511. The examiner can normally be reached on Monday-Thursday from 9:00am to 6:00pm and on alternate Fridays from 9:00am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon, can be reached on 703-308-4251. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9310.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

wba
09/17/03

WBA


HAROLD PYON
SUPERVISORY PATENT EXAMINER
1772

9/17/03